IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(Crl.).No. 228 of 2007(S)

PETITIONER:

PREEJA MOHAMMED ASHARDHEEN,
W/O.MOHAMMED ASHARDHEEN, CHERAKUZHIYIL HOUSE,
VELLOOR P.O., PAMPADY VILLAGE, KOTTAYAM.

BY ADV. SRI.S.GOPAKUMARAN NAIR
SRI.S.GOWTHAM

RESPONDENTS:
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1. ABDUL REHMAN A.,
C.V.HOUSE, THERUVU, KULAPADA P.O., ARYANAD,
NEDUMANGAD, THIRUVANANTHAPURAM.
PRESENTLY RESIDING AT : KUNNUMPURATHU VEEDU,
CHARUMOODU, PUTHUKULANGARA P.O.,NEDUMANGADU TALUK,
VELLANADU PANCHAYATH, THIRUVANANTHAPURAM.

2. FATHIMA BEEVI, W/O. ABDUL REHMAN,
-DO- -DO-

3. SULFIKAR REHMAN,
-DO- -DO-

4. NOUSHAD A.,
-DO- -DO-

5. THE SUB INSPECTOR OF POLICE,
THODUPUZHA, KOTTAYAM.

6. THE SUB INSPECTOR OF POLICE,
ARYANAD, THIRUVANANTHAPURAM.

7. THE SUPERINTENDENT OF POLICE (RURAL),
THIRUVANANTHAPURAM.
(DETENU - MOHAMMED ASHARDHEEN)

R5 TO R7 BY GOVT.PLEADER SRI C.M.KAMMAPPU
R1 TO R4 BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.NAGARAJ NARAYANAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1	TRUE COPY OF MARRIAGE AGREEMENT.
EXT.P2	TRUE COPY OF THE COMPLAINT TO THE 7TH RESPONDENT.
EXT.P3	TRUE COPY OF COMPLAINT TO THE KERALA VANITHA COMMISSION.
EXT.P3A	TRUE COPY OF THE RECEIPT TO COMPLAINT.
EXT.P4	TRUE COPY OF THE COMPLAINT TO THE CHIEF MINISTER.
EXT.P5	TRUE COPY OF THE REPLY FROM THE GOVT.
EXT.P6	TRUE COPY OF THE COMPLAINT TO NEDUMANGADU JAMATH SECRETARY.

P.R.RAMAN & V.K.MOHANAN, JJ.

W.P.(Crl)NO.228 OF 2007

Dated this the 4th day of October, 2007

JUDGMENT

Raman, J.

Preeja Mohammed Ashardheen, the petitioner herein, complains that her husband, Mohammed Ashardheen, is under the illegal custody of the party respondents. It is her further case that while the petitioner was working as Administrative Officer in a private concern at Thiruvananthapuram and the detenu was working in Government M.G.P. Project, they fell in love and subsequently they married as per the Special Marriage Act and has produced Ext.P1. Subsequent to the marriage the alleged detenu along with the petitioner stated to have gone to the house of the party respondents and they restrained the petitioner from entering into the house using force and abusive words. Thereafter, the petitioner along with the alleged detenu went to the house of the petitioner's Uncle at Thodupuzha and lived there as husband and wife. At that time the detenu got a job at Ernakulam. On 28/7/2007 Mohammed Ashardheen left the house where he was

residing along with the petitioner; but did not return back. Petitioner suspected that the alleged detenu is under the illegal custody of the party respondents. A complaint made to the police however was not fruitful. Hence this petition.

2. Urgent notice was issued. Parties appeared. We interacted with the allged detenu, Mohammed Ashardheen. He denies of any valid marriage with the petitioner. Ext.P1 is only agreement and not one issued under the Special Marriage Act. According to him, he is now residing with one of his relatives with free will and on his own volition and is not under the illegal custody. In the circumstances, we find that the allegation contained in the writ petition that Mohammed Ashardheen is under the illegal custody of party respondents is not proved. The other contention regarding the validity or otherwise of the marriage is left open and either party can approach the appropriate Forum for such relief, if they are so advised.

Accordingly, this writ petition is closed.

However, if there is any criminal case initiated at the instance of the petitioner for any of the offence punishable under the Indian Penal Code

or any other provisions of law, the Police will continue with such proceedings in accordance with law.

P.R.RAMAN,
Judge.

V.K.MOHANAN,
Judge.

kcv.